

ESTTA Tracking number: **ESTTA490477**

Filing date: **08/22/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Valhalla Game Studios Co. Ltd.
Granted to Date of previous extension	08/22/2012
Address	1-3-2 Tsukishima Chuo-KuTsukugon Building 2F Tokyo, 104-0052 JAPAN
Attorney information	Marvin Gelfand, Esq. Weintraub Tobin Chediak Coleman Grodin 9665 Wilshire Boulevard, 9th Floor Beverly Hills, CA 90212 UNITED STATES mgelfand@weintraub.com, dmoreno@weintraub.com Phone:(310) 860-3325

Applicant Information

Application No	85310089	Publication date	04/24/2012
Opposition Filing Date	08/22/2012	Opposition Period Ends	08/22/2012
Applicant	Valhalla Motion Pictures, Inc. 3201 W. Cahuenga Blvd. Los Angeles, CA 90068 UNITED STATES		

Goods/Services Affected by Opposition


Class 041. First Use: 2010/10/31 First Use In Commerce: 2010/10/31
All goods and services in the class are opposed, namely: (Based on Use in Commerce) motion picture film production and television show production (Based on Intent to Use) writing and editing scripts, teleplays and screenplays for others

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	77948333	Application Date	03/02/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VALHALLA GAME STUDIOS		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Computer game programs; Computer game software; Computer software, namely, game engine software for video game development and operation; Video game software</p> <p>Class 016. First use: Printed materials, namely, novels and series of fiction books and short stories featuring scenes and characters based on video games; Series of computer game hint books</p> <p>Class 028. First use: Positionable toy figures; Toy action figures</p> <p>Class 042. First use: Design and development of computer game software and virtual reality software</p>

U.S. Application No.	77948895	Application Date	03/02/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VALHALLA GAME STUDIOS		
Design Mark			
Description of Mark	The mark consists of a square single lined border containing a dragon ship on the ocean and the word "Valhalla" beneath and partially overlapping the bottom of the border and above the words "Game Studios".		
Goods/Services	<p>Class 009. First use: Computer game programs; Computer game software; Computer software, namely, game engine software for video game development and operation; Video game software</p> <p>Class 016. First use: Series of computer game hint books and strategy guides; printed materials, namely, novels and series of fiction books, comic books and short stories</p>		

	featuring scenes and characters based on video games Class 028. First use: Positionable toy figures; Toy action figures Class 042. First use: Design and development of computer game software and virtual reality software
--	---

Related Proceedings	Opposition Proceeding No.: 91204259
---------------------	-------------------------------------

Attachments	77948333#TMSN.jpeg (1 page)(bytes) 77948895#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (5 pages)(219879 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/marvingelfand/
Name	Marvin Gelfand, Esq.
Date	08/22/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No.: 85/310,089

Published in the *Official Gazette* on April 24, 2012

VALHALLA GAME STUDIOS CO. LTD., a
Japanese Corporation

Opposer,

v.

VALHALLA MOTION PICTURES, INC., a
California corporation,

Applicant.

Index No.: _____

NOTICE OF OPPOSITION

NOTICE OF OPPOSITION

Valhalla Game Studios Co. Ltd., a Japanese Corporation with a place of business at 1-3-2 Tsukishima Chuo-Ku Tsukugon Building 2F, Tokyo 104-0052 JAPAN (hereinafter "Opposer"), believes that it will be damaged by registration of the mark "VALHALLA ENTERTAINMENT" shown in Application Serial No. 85/310,089 and, having previously been given an extension of time to oppose until August 22, 2012, hereby opposes the same. The grounds for the opposition are as follows:

1. Opposer, Valhalla Game Studios Co. Ltd., is a Japanese Corporation. Opposer has a place of business at 1-3-2 Tsukishima Chuo-Ku Tsukugon Building 2F, Tokyo 104-0052 JAPAN.

2. Opposer is in the business of the design, research, development, sales and promotion of home console game software.

3. Opposer filed the following intent-to-use trademark applications (hereinafter referred to as the "Opposer's Marks"):

a. Serial No. 77/948,333 for the mark VALHALLA GAME STUDIOS for computer game programs; computer game software; computer software, namely, game engine software for video game development and operation; video game software in International Class 9, printed materials, namely, novels and series of fiction books and short stories featuring scenes and characters based on video games; series of computer game hint books in International Class 16; positionable toy figures and toy action figures in International Class 28; and design and development of computer game software and virtual reality software in International Class 42. The application was filed with the U.S. Patent and Trademark Office on March 2, 2010 and was published for opposition on November 15, 2011.

b. Opposer filed an intent-to-use trademark application, Serial No. 77/948,895 for the mark VALHALLA GAME STUDIOS and design for computer game programs; computer game software; computer software, namely, game engine software for video game development and operation; video game software in International Class 9, printed materials, namely, novels and series of fiction books and short stories featuring scenes and characters based on video games; series of computer game hint books in International Class 16; positionable toy figures and toy action figures in International Class 28; and design and development of computer game software and virtual reality software in International Class 42. The application was filed with the U.S. Patent and Trademark Office on March 2, 2010 and was published for opposition on December 13, 2011.

4. Subsequent to the filing of Opposer's Mark, Applicant Valhalla Motion Pictures, Inc., filed its trademark application to register the mark VALHALLA ENTERTAINMENT and design (Serial No. 85/310,089) for motion picture film production and television show production (based on Use in Commerce as of October 31, 2010) and writing and editing scripts, teleplays and screenplays for others (based on Intent to Use) in International Class 41. The application was filed with the U.S. Patent and Trademark Office on May 2, 2011.

5. Subsequent to publication of Opposer's Mark, Valhalla Motion Pictures, Inc. filed its opposition to Opposer's VALHALLA GAME STUDIOS mark (Proceeding No. 91204259 filed on March 12, 2012), alleging that Opposer's Marks were confusingly similar. Opposer is currently arguing such petition on the grounds that Valhalla Motion Picture's marks for VALHALLA MOTION PICTURES, VALHALLA ENTERTAINMENT and VALHALLA TELEVISION are in two different industries.

6. While there is no confusion between the VALHALLA GAME STUDIOS Marks and VALHALLA MOTION PICTURE and VALHALLA TELEVISION Marks, there would be confusion if VALHALLA ENTERTAINMENT is allowed registration. Applicant's mark VALHALLA ENTERTAINMENT is confusingly similar to Opposer's VALHALLA GAME STUDIO Marks in sound, appearance and commercial impression. It is clear that Applicant's mark for VALHALLA ENTERTAINMENT is designed to subsume anything in the general entertainment industry of which games, toys and comic books are a part of.

7. Upon information and belief, Opposer alleges that the goods of Opposer and Applicant are offered in similar channels of commerce and offered to similar customers.

8. Opposer has no connection with Applicant and has never authorized Applicant to use the Opposer's Marks.

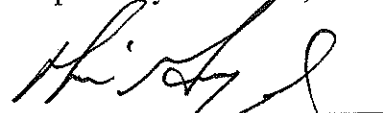
9. In view of the similarity of the respective marks and the related nature of the goods and/or services of the respective parties, it is alleged that use and registration of Applicant's mark in connection with the specified goods is likely to cause confusion, cause mistake or deceive consumers, and cause them to believe that the goods offered by Applicant emanate from, or are sponsored by, endorsed by or otherwise connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C.A. § 1052(d).

10. Opposer will be damaged by the registration of Applicant's mark by reason of the foregoing, and because such registration will support and assist Applicant in the confusing and misleading use of Applicant's Mark, and will give color of rights to Applicant in violation of Opposer's prior and superior rights in its marks.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and Applicant's application to register the mark VALHALLA ENTERTAINMENT be denied in all respects.

Dated: August 22, 2012

Respectfully submitted,



Marvin Gelfand, Esq.
WEINTRAUB TOBIN CHEDIAK
COLEMAN GRODIN

9665 Wilshire Boulevard, Ninth Floor
Beverly Hills, California 90212
Telephone: (310) 858-7888
Facsimile: (310) 550-7191
mgelfand@weintraub.com

Attorneys for Opposer
Valhalla Game Studios Co. Ltd.

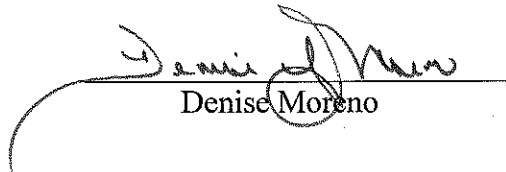
CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on the Applicant by mailing said copy on August 22, 2012, via First Class Mail, postage prepaid to:

MICHAEL K. GRACE
GRACE+GRACE LLP
444 S FLOWER ST STE 1650
LOS ANGELES, CA 90071-2955
Phone Number: 213-452-1220
Fax Number: 213-452-1222

I hereby further certify that the instant document was filed on the date indicated below via the Trademark Trial and Appeal Board's online electronic filing system.

Dated: August 22, 2012


Denise Moreno